IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 1882 of 2005

Between:

State of Andhra Pradesh, Rep by its Commercial Tax Officer, Sanathnagar Circle, Mayur Kusshal Complex, VIth Floor, Abids, Hyderabad.

..... PETITIONER

AND

M/s. Armour Pharmaceuticals Ltd. Plot No. 42, IDA, Bollaram, Medak District, (In Liquidation) Rep by Official Liquidator, High Court of Andhra Pradesh, Kendriya Sadan, Koti, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of writ of Mandamus declaring the action of the Official Liquidator in not disposing the claim petition and releasing the amount due to the petitioner, as illegal, arbitrary and without jurisdiction and contrary to section 16 (c) of the APGST Act and consequently declare that the sales tax will have the first charge over the properties of the defaulting dealer in the light of section 16

(c) of the APGST Act and Section 17 of the CST Act and further direct the official liquidator to remit the sales tax arrears of the Respondent company to the petitioner from the sale proceeds of the properties of the Respondent company forthwith and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner:MR.K.RAJI REDDY(SPL.SC FOR CT)

Counsel for the Respondent No.: OFFICIAL LIQUIDATOR

The Court made the following :

O R D E R (Per MHSA,J)

Petitioner seeks direction upon Official Liquidator.

2. It is the case of the petitioner – State that the tax arrears under the Andhra Pradesh General Sales Tax and Central Sales Tax, are first

charge over the properties of the defaulting dealer. Reliance is placed upon Section 16(c) of APGST Act and Section 17 of CST Act. The grievance of the petitioner appears to be with respect to inaction on the part of the learned Official Liquidator in considering the claim of the petitioner.

3. Learned Official Liquidator, under the scheme of the Companies Act, acts under the control or directions of the learned Company Court. It is, therefore, not considered appropriate by this Court exercising writ jurisdiction to issue any directions to the learned Official Liquidator, much less of the nature as prayed for, for the reason that the petitioner has efficacious alternative remedy under the Companies Act to seek appropriate directions to be issued to the learned Official Liquidator.

4. We are, therefore, no inclined to entertain the instant writ petition. Same is dismissed at admission stage, with liberty to the petitioner to avail of such efficacious alternative remedy as may be open to the petitioner and as it may be advised. No costs.

M.H.S.ANSARI,J

T.CH.SURYA RAO,J

AVS

DATE:08.02.2005

To

To

1. M/s. Armour Pharmaceuticals Ltd. Plot No. 42, IDA, Bollaram, Medak District, (In Liquidation) Rep by Official Liquidator, High Court of Andhra Pradesh, Kendriya Sadan, Koti, Hyderabad.

2. Two C.D. copies.